

Judge Robb, cont.

diana State Bar Foundation and a Senior Distinguished Fellow of the Indianapolis Bar Foundation. She is a frequent speaker on legal topics for attorneys, other judges, and professional, civic and community organizations.

Judge Robb was Founding Chair of Governor Bowen's Commission on the Status of Women; was a recipient of a 1993 Indiana State Bar Association's "Celebrating 100 Years of Women in the Legal Profession" award; the 2001 Maynard K. Hine distinguished alumni award given in recognition of support and service to IUPUI and Indiana University; the 2004 Bernadette Perham "Indiana Women of Achievement" Award, bestowed by Ball State University to honor of one of their outstanding professors; the 2005 Indiana State Bar Association's Women in the Law Recognition Award; the 2006 Tippecanoe County YWCA Salute to Women "Women of Distinction" Award; the 2007 Warren G. Harding High School, Warren, Ohio, Distinguished Alumni Award; the 2010 Indiana University Alumni Association President's Award, a 2010 Indiana Lawyer Distinguished Barrister Award, the 2011 Indianapolis Bar Association Women and the Law Committee's Antoinette Dakin Leach Award and the 2011 David Hamacher Award from the Appellate Practice Section of the Indiana State Bar Association.

Judge Robb chairs the Supreme Court Task Force on Family Courts and is involved in several projects to benefit the Indiana legal system. She also chaired the Supreme Court task force for the development of Trial Court Local Rules, has also served as a member of the Indiana Board of Law Examiners, the Governance Committee of the Supreme Court IOLTA (Interest on Lawyer Trust Account) Committee; the Federal Advisory Committee on Local Rules for the Federal Court for the Northern District of Indiana; and the Federal Advisory Committee for the Expediting of Federal Litigation.

Judge Robb authored "Reflections of Baseball, Life and the Law" in the Indiana State Bar Association's journal, *Res Gestae* and "Running Bases, Winning Cases: Why the Grand Old Game of Baseball is like the legal profession" in the ABA's journal. She also authored a chapter on Supreme Court Justice Leonard Hackney in, *Indiana Supreme Court Justices*, and co-authored a

chapter, "From Juvenile Courts to Family Courts," in *Essays on Indiana Legal History*.

In addition, she serves on the ABA Committee that accredits law schools and chaired the 2010 ABA's Appellate Judges Council-Appellate Judges Education Institute's national Summit for Judges, lawyers and Staff attorneys. Judge Robb is an elected member of the American Law Institute (ALI).

Judge Robb was retained on the Court of Appeals in 2000 and 2010, is married to a professor at Purdue University. Their son, a graduate of the United States Naval Academy, is a lieutenant commander on active duty in the United States Navy.

Judge Riley, cont.

Alumni Association, and a member of the Indianapolis Rotary Club.

She also has extensive international legal experience. In 2008, she co-founded the Legal Aid Centre of Eldoret, Kenya (LACE), which provides legal access to justice in the AMPATH medical center for its HIV/AIDS patients.

In 2011, Judge Riley traveled with the Washington, D.C.-based International Judicial Academy to The Hague, Netherlands, to observe the International Criminal Court and two International Criminal Tribunals that are hearing cases from Sierra Leone and the former Yugoslavia.

In 2012 she participated in the 3rd Sino-U.S. Law Conference at the National Judges College of the People's Republic of China, which oversees all aspects of that country's judicial training, placement and promotion.

In 2013, she lectured on judicial ethics at the Justice Academy of Turkey and in 2014 joined an Indiana University team of legal observers at the U.S. detention facility at Guantanamo Bay, Cuba.

Judge Riley is the mother of two sons. She was retained on the Court by election in 1996 and 2006 and serves as presiding judge of the court's Fourth District.



Judge Barnes, cont.

the Regional Director's Citation in 1989 and 1998 for innovative and effective child support enforcement from the U.S. Department of Health and Human Services, and in 1995 received the State Director's Award for Outstanding Child Support Program from the Indiana Family & Social Services Administration.

While Prosecutor, Judge Barnes was elected President of the National District Attorneys Association (1995-1996), Chairman of the Board, Indiana Prosecuting Attorneys Council (1982-1983, 1992-1993), President of the St. Joseph County Bar Association (1992-1993), National Board of Trial Advocacy (1995-1996), National Advisory Council on Violence Against Women (1997), Chairman of the Board of Regents, National College of District Attorneys (1997-1998), American Prosecutor's Research Institute (1997-1998), and various other professional and civic organizations.

The Indiana Victim Assistance Network honored him with its Special Advocate Award in 1989, and in 1998 he received the Eugene "Shine" Feller Award from the Indiana Prosecuting Attorneys Council.

Judge Barnes supports a wide range of community organizations, especially those that serve vulnerable populations. He is a longtime supporter of the LOGAN Center's annual Nose-On campaign and in 1986 received its Joseph J. Newman Award for Committed and Outstanding Advocacy on Behalf of Developmentally Disabled Individuals.

He also has served on the boards of the St. Joseph County Chapter of the American Cancer Society and the Alcoholism Council of St. Joseph County.

Judge Barnes is a member of the Indiana Bar Foundation, the St. Joseph County Bar Association, the Indiana State Bar Association, and the Illinois State Bar Association.

Judge Barnes is married to Alberta Barnes, a retired educator. They are the parents of two sons, Tim and John. Tim is an attorney in Washington, D.C. John is a TV producer at NBC Sports. John and his wife, Bess, are the parents of the world's most perfect granddaughter, Addison Emily.

He lives in South Bend and is an avid baseball fan and reader.

SYNOPSIS

On the evening of Oct. 26, 2012, an individual smashed the front window of the Cole Clothing Museum in Logansport. After smashing the window, the individual entered the building and disturbed many of the Museum's possessions. The individual left the premises, but the individual's blood was discovered in several areas throughout the building. The police collected blood samples from the scene. A DNA analysis indicated the DNA profile of the blood discovered in the Museum matched Travis Cunningham's DNA profile.

On Dec. 13, 2013, the State of Indiana charged Cunningham with burglary as a Class C felony, alleging Cunningham did break and enter the Museum with the intent to commit a felony; theft as a Class D felony, alleging Cunningham did knowingly or intentionally steal a wedding dress and/or antique clothing from the Museum; and criminal mischief as a Class B misdemeanor, alleging Cunningham recklessly, knowingly, or intentionally damaged the Museum's property without the Museum's consent. The State also filed a habitual offender enhancement against Cunningham.

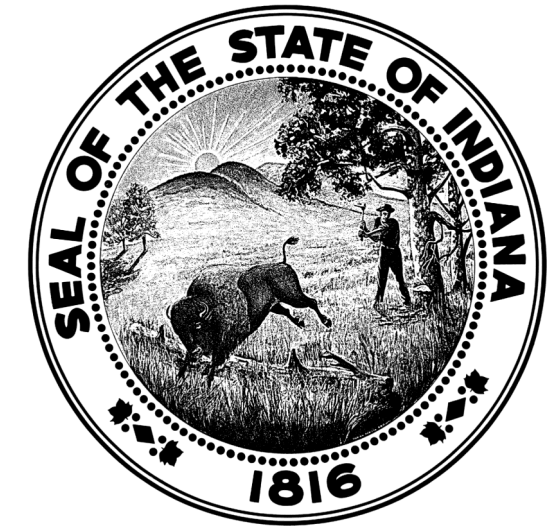
After being charged with the above offenses, Cunningham absconded to Florida. He was caught in Florida and returned to Indiana. Thereafter, Cunningham entered into a plea agreement with the State. The agreement provided Cunningham would plead guilty to burglary in exchange for the State dismissing the theft charge, the criminal mischief charge, and the habitual offender enhancement. In addition, the plea agreement provided a sentence of eight years imprisonment, with three years suspended to probation.

At the guilty plea hearing, Cunningham admitted to breaking into the Museum with the intent to steal. After being questioned by the trial judge, however, Cunningham explained he had been drinking alcohol and using drugs before breaking into the building, and he only entered the building because he thought he saw his girlfriend enter the building seconds before him. Cunningham

- continued on p. 2

Court of Appeals of Indiana

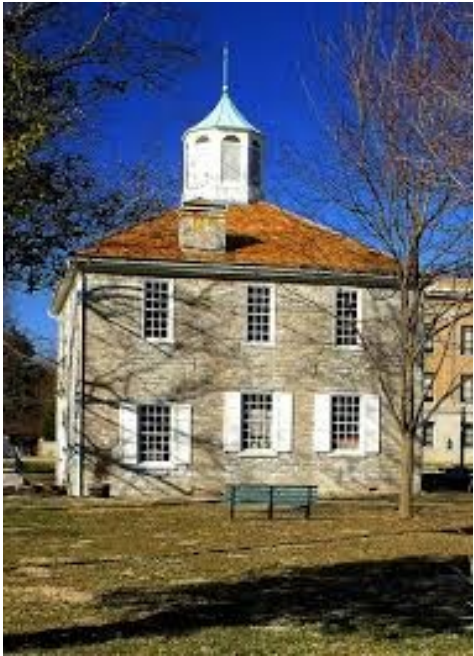
*Hearing oral argument at
Hammond Academy
of Science and Technology
Monday, April 18, 2016 @ 1 p.m.*



Cunningham v. State
09A02-1510-CR-1653

*On Appeal from Cass Superior Court
The Honorable Rick Maughmer, Judge*

Indiana Bicentennial 1816-2016



Corydon capitol still stands

The simple limestone structure, completed in 1816, is the heart of the Corydon Historic District in Harrison County, as listed on the National Register of Historic Places. Corydon served as the seat of Harrison County government, as territorial capital of the Indiana Territory, and as Indiana’s first state capital, from 1816 -1825. Territorial delegates crafted Indiana’s first Constitution there in June 1816, and the first General Assembly convened there in November 1816.

Synopsis, cont.

ham also explained he was confused at the time, and thought the building was his family residence. The trial court took the matter under advisement, ordered a pre-sentence investigation report, and scheduled a sentencing hearing. The pre-sentence investigation report recommended the trial court not accept Cunningham’s guilty plea. At the sentencing hearing, Cunningham orally requested to withdraw his guilty plea, which the trial court denied. The trial court then accepted Cunningham’s guilty plea and sentenced him to eight years in the Indiana Department of Correction, with three years suspended to probation. On appeal, Cunningham argues the trial court abused its discretion in denying his oral motion to withdraw his guilty plea.

Attorneys for the Parties

For the Appellant

Mark K. Leeman is a father of three children and a native Hoosier, born and raised in Cass County. He earned a B.S. from Indiana University Kelley School of Business and his law degree from the Maurer School of Law at Indiana University. While in law school, Mark was a legal intern/clerk for Judge Larry J. McKinney of the Southern District of Indiana and Judge Paul D. Mathias of the Court of Appeals of Indiana. After law school, Mark clerked for Judge Robert G. James in the Western District of Louisiana and worked in administrative law at a large Chicago law firm. In 2010 Mark and his family returned to Indiana so he could practice law with his father in Logansport. His practice focuses on employment law and criminal appeals. This will be his second appellate oral argument. Mark spends his spare time following state and national politics, corralling his kids, visiting zoos and the Children’s Museum, and attending summer festivals.

For the Appellee

James B. Martin is from Indianapolis and attended Broad Ripple High School. Mr. Martin spent several years working in the service industry before pursuing his B.A. in Journalism at IUPUI in Indianapolis. After graduation in 1994, Mr. Martin decided to study law at the Robert H. McKinney School of Law in Indianapolis. Mr. Martin participated in moot court competitions and was a member of the Order of Barristers. Mr. Martin also worked in the Center for Law and Health during his law school experience. After graduation in 1998, Mr. Martin began work in the Office of the Indiana Attorney General in the appellate division and has spent his career working in that capacity, spending many of those years working primarily in capital cases and habeas corpus cases in the federal courts. Mr. Martin has been presenting oral argument in both the state and federal courts since 1999.

Justice, quoted

The complete independence of the courts of justice is peculiarly essential in a limited Constitution.
- *Alexander Hamilton, Federalist 78*

It is emphatically the province and duty of the Judicial Department to say what the law is. Those who apply the rule to particular cases must, of necessity, expound and interpret that rule. If two laws conflict with each other, the Courts must decide on the operation of each.
- *Chief Justice John Marshall*

Whatever disagreement there may be as to the scope of the phrase "due process of law" there can be no doubt that it embraces the fundamental conception of a fair trial, with opportunity to be heard.
- *Justice Oliver Wendell Holmes, Jr.*

Law matters, because it keeps us safe, because it protects our most fundamental rights and freedoms, and because it is the foundation of our democracy.
- *Justice Elena Kagan*

Most high courts in other nations do not have discretion, such as we enjoy, in selecting the cases that the high court reviews. Our court is virtually alone in the amount of discretion it has.
- *Justice Sandra Day O'Connor*

Restriction on free thought and free speech is the most dangerous of all subversions. It is the one un-American act that could most easily defeat us.
- *Justice Thurgood Marshall*

Today’s Panel of Judges



**The Honorable
Margret G. Robb**
Tippecanoe County

Margret G. Robb was appointed to the Court of Appeals of Indiana in July 1998 by Governor Frank O’Ban-non. She holds a B.S. and an M.S. in Business Economics from Purdue University, a Magna Cum Laude J.D. from Indiana University Robert H. McKinney School of Law and is a graduate of the Graduate Program for Indiana Judges. In 2011 she began a three year term as chief judge; the first woman to hold that position in the Court’s more than 100 year history. Prior to her appointment to the Court, Judge Robb was, for 20 years, engaged in the general practice of law in Lafayette, and served as a Chapter 11, 12 and a standing Chapter 7 Bankruptcy trustee for the Northern District of Indiana. She was a registered family and civil mediator and served as a Tippecanoe County Deputy Public Defender. She has been an officer of the Indiana State Bar Association, the Fellows of the Indiana State Bar Foundation, Tippecanoe County Bar Association, National Association of Women Judges, the Indiana University School of Law- Indianapolis Alumni Association and the Bankruptcy Section of the Indiana State Bar Association. She has also been a Board member of the Appellate Judges Council of the American Bar Association, the Indianapolis Bar Association, the Indianapolis Bar Foundation, the Senior Council Section of the Indianapolis Bar Association, the Appellate Practice Section of the Indiana State Bar Association and the Appellate Judges Education Institute. She was the moderator for the 2005-2006 and Chair for the 2006-2007 Indianapolis Bar Association’s Bar Leader Series, and is a member of the American Bar Foundation, American Judicature Society, a Master Fellow of the In-

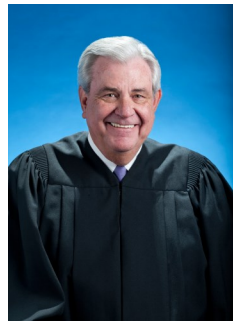
- continued on p. 4



**The Honorable
Patricia A. Riley**
Jasper County

Patricia A. Riley was named to the Court of Appeals of Indiana by Governor Evan Bayh in January of 1994. A native of Rensselaer, IN, Judge Riley earned her bachelor’s degree from Indiana University-Bloomington in 1971 and her law degree from the Indiana University School of Law-Indianapolis in 1974. Early in her career she served as a Deputy Prosecutor in Marion County and a public defender in Marion and Jasper counties before entering into private practice in Jasper County. She served as a judge of the Jasper Superior Court from 1990 to 1993. She is a former associate professor at St. Joseph’s College in Rensselaer and currently an adjunct professor at the Indiana University School of Law-Indianapolis. Judge Riley’s legal memberships include the Indianapolis Bar Association, the Marion County Bar Association, and the Indiana State Bar Association, including co-chair of the ISBA’s Racial Diversity in the Profession Section; member, Women in the Law Committee; and member, Committee on Improvements in the Judicial System. Judge Riley is the former chair of the Appellate Practice Section of the American Bar Association, and a member of the ABA’s Judicial Division International Courts Committee. She is a member of the Indiana Judges Association and the Board of Directors of the National Association of Women Judges. Judge Riley’s civic associations include being on the Board of Directors of the Greater Indianapolis Health Foundation, Board of Directors of Global Peace Initiatives, Board of Directors and Treasurer of the Indiana University School of Law–Indianapolis

- continued on p. 4



**The Honorable
Michael P. Barnes**
St. Joseph County

Michael P. Barnes was appointed to the Court of Appeals of Indiana in May 2000 after long service as the St. Joseph County Prosecuting Attorney. He was retained on the Court by election in 2002 and 2012 and served as Presiding Judge of the 3rd District from 2009 through 2011. In 2012 he wrote 144 majority opinions for the Court of Appeals. Judge Barnes was born and raised in rural Illinois. He earned a B.A. in History at St. Ambrose College in Davenport, IA in 1970 and received his J.D. in 1973 from the University of Notre Dame Law School. He practiced law from 1973-78 at the South Bend law firm of Voor, Jackson, McMichael and Allen, while also serving as Deputy Prosecuting Attorney. Voters chose him in 1978 to be the St. Joseph County Prosecuting Attorney, an office he held for 20 years over five elections. While prosecutor, he oversaw a staff of 65 and spearheaded development of the CASIE Center for child victims of physical and/or sexual abuse, which continues to serve the community. Judge Barnes also created a domestic and family violence unit in the Prosecutor’s office and launched a pretrial diversion program for nonviolent misdemeanor offenders that served as a model for successful state legislation. The domestic and family violence unit focused solely on crimes against women and children, including abuse and neglect. Judge Barnes personally tried more than 25 murder and other major felony cases while overseeing a staff of 12 to 15 deputy prosecutors. His efforts to collect delinquent child support payments garnered more than \$100 million for children in St. Joseph County. For those efforts, he received

- continued on p. 4